

Appl. No.: 10/541,085

Reply to Office Action of: 01/10/2008

REMARKS

Claims 1-3, 5-11, 14, and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lueders (US 6,067,074) in view of Ostergard (US 6,704,004). The examiner is requested to reconsider this rejection.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Claim 1 claims a "keypad comprising ... a set of switches; a set of mechanical key elements, each capable of being used by a user so as to operate a respective switch wherein each key element comprises an outer pad for actuation by a user; and a display device, the display pattern of which can be varied under the control of a display controller and arranged so as to be capable of propagating two or more patterns of light from at least some of the key elements wherein the display device is located between each outer pad and the respective switch; whereby indicia may be displayed from the key elements and the displayed indicia varied under the control of the display controller".

In contrast Lueders merely discloses a touch screen device in which a flexible display overlies a printed circuit board comprising a plurality of switches. The user touches the display which flexes to activate a switch which is concealed beneath the display. Lueders does not teach or disclose "a set of mechanical key elements". The purpose of Lueders appears to be to provide an indication of the current

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functions associated with those ones of the concealed switches which are used in the current application.

Ostergard discloses a key mat comprising an outer flexible transparent layer, an underlying masking layer providing a legend and an underlying light emitting source. The key mat comprises a plurality of key pads. The key pads are projections in the key mat. The surface of the key mat is therefore not flat but raised at the location of each key pad. The masking layer is simply a layer of material. It is not 'a display device, the display pattern of which can be varied under the control of a display controller' as recited in claim 1.

Neither Lueders nor Ostergard teach or disclose a set of mechanical key elements ... wherein each key element comprises an outer pad for actuation by a user ... and a display device ... wherein the display device is located between each outer pad and the respective switch.

Additionally, the examiner states that "Lueders does not teach wherein each mechanical key element is located between each outer pad and the respective switch". The examiner further states that "Ostergard discloses wherein each mechanical key element is located between each outer pad and the respective switch". However, this limitation is not recited in applicants' claim 1. Perhaps the examiner intended to refer to "wherein the display device is located between each outer pad and the respective switch". The examiner is requested to clarify this rejection.

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Furthermore, claim 1 recites "a display device, the display pattern of which can be varied under the control of a display controller and arranged so as to be capable of propagating two or more patterns of light from at least some of the key elements wherein the display device is located between each outer pad and the respective switch; whereby indicia may be displayed from the key elements and the displayed indicia varied under the control of the display controller". The display device is therefore:

- a) located between each outer pad and the respective switch; and
- b) arranged whereby indicia may be displayed from the key elements and the displayed indicia varied under the control of the display controller.

Even if, for the sake of argument, Lueders discloses feature "b", it does not disclose feature "a". And, even if, for the sake of argument, Ostergard (arguably having a fixed arrangement that displays) discloses feature "a", it does not disclose feature "b". As neither piece of prior art discloses both "a" and "b" above, the claim is non-obvious.

Applicants submit that there is no suggestion to combine the references as the examiner is attempting to do (at least not until after reading applicants' patent application). In particular, the purpose of Lueders is to improve the clarity of the display by displaying an image of the subset of concealed keys which are used in the current application. An indication of the current functions associated with those keys is also displayed. All the keys are concealed, with only the

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location of the 'active' keys being indicated. The Examiner may be alleging that it would have been obvious for the skilled person to incorporate the outer pad (and switch) of Ostergard into Lueders key pad. The purpose of Lueders is to conceal certain keys when they are not in use. Ostergard, on the other hand, discloses a system comprising key pads which are permanent projections in the surface of the key mat and so are always visible to the user. Incorporating the outer pad of Ostergard into Lueders key pad would remove the fundamental benefit provided by Lueders, namely the concealment of the non-relevant keys. It would therefore not have been obvious to combine these documents.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (see MPEP 2143.01, page 2100-98, column 1). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP 2143.01, page 2100-98, column 2). A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references.

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(see MPEP 2143.01, page 2100-99, column 1) Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). >See also Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (The level of skill in the art cannot be relied upon to provide the suggestion to combine references.)

In the present case, there is no teaching, suggestion, or motivation, found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art, to provide a display device, wherein the display device is located between each outer pad and the respective switch, and whereby indicia may be displayed from the key elements and the displayed indicia varied under the control of the display controller as claimed in claim 1. The features of claim 1 are not disclosed or suggested in the art of record. Therefore, claim 1 is patentable and should be allowed.

Though dependent claims 2-3, 5-11, 14, and 15 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 1. However, to expedite prosecution at this time, no further comment will be made.

Claims 16-18 have been added above to further claim the features recited therein.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. If there are any additional charges with respect to this Amendment or otherwise, please charge

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deposit account 50-1924 for any fee deficiency. Should any unresolved issue remain, the examiner is invited to call applicants' attorney at the telephone number indicated below.

Respectfully submitted,



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3/10/2008

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